

REMARKS

In response to the action of March 5, 2009, applicants ask that all claims be allowed in view of the amendments to the claims and the following remarks. Claims 1, 3, 4, 6-14, 25-41, and 45-58 are currently pending, of which claims 1, 25, and 50 are independent. Claims 1, 3, 4, 6, 7, 9, 14, 25-27, 29, 35, and 38 have been amended, claims 15-24 and 42-44 have been cancelled without prejudice or disclaimer of subject matter, and claims 46-58 have been added.

Interview Summary

Applicants' undersigned representative thanks Examiner Nguyen for the courtesies afforded during the interview conducted on May 28, 2009. During the interview, Examiner Nguyen and applicants' representative discussed amendments to independent claim 1 with respect to the cited references. Specifically, Examiner Nguyen and applicants' representative discussed amending independent claim 1 to indicate that the number of connection transactions was a cumulative number of connection transactions initiated to more than one (e.g., all) of the access providers. Notably, Examiner Nguyen agreed that this amendment appeared to overcome the cited references. This reply reflects the substance of the interview.

§ 101 Rejections

Claims 15-37 have been rejected as being directed to non-statutory subject matter. Applicants have cancelled claims 15-24 without prejudice or disclaimer of subject matter, thereby rendering the rejection of claims 15-24 moot. Applicants have amended independent claim 25 to recite "a switch that is connected to access providers and that includes a hardware component." Therefore, applicants submit that independent claim 25 is not a system of software per se. Accordingly, applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 25 and its dependent claims.

§ 103 Rejections

Claim 1, 3, 4, 6-39, and 42-45 have been rejected as being unpatentable over Eichstaedt (U.S. Patent Number 6,662,230) in view of Short (U.S. Patent Number 6,636,894). Applicants

have cancelled claims 15-24 and 42-44 without prejudice or disclaimer of subject matter, thereby rendering the rejection of claims 15-24 and 42-44 moot.

Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 3, 4, 6-14, 25-39, and 45 because each of Eichstaedt, Short, and the proposed combination fails to describe or suggest all of the features of amended independent claims 1 and 25, as described below.

For example, as amended, independent claim 1 recites, among other things, determining, by a switch, whether a cumulative number of connection transactions initiated to more than one of the access providers by an attacking access requestor during a first period of time exceeds a threshold number. Applicants submit that each of Eichstaedt, Short, and the proposed combination fails to describe or suggest at least these features. Notably, in the interview of May 28, 2009, Examiner Nguyen agreed that these features appeared to overcome the cited references.

As discussed in the interview of May 28, 2009, Eichstaedt describes a data protection system that monitors for data requests from multiple client computers to a single web server. See Eichstaedt at col. 6, lines 20-22. Although the Eichstaedt data protection system monitors requests to a web server, the Eichstaedt data protection system does not determine, by a switch, whether a cumulative number of connection transactions initiated to more than one of the access providers by an attacking access requestor during a first period of time exceeds a threshold number. Rather, the Eichstaedt system monitors a number of requests initiated to a single web server. See Eichstaedt at col. 3, lines 45-49.

Short, which was cited for disclosing a switch, fails to remedy the deficiencies of Eichstaedt discussed above. See Office Action at pages 2 and 4.

Accordingly, each of Eichstaedt, Short, and the proposed combination fails to describe or suggest, determining, by a switch, whether a cumulative number of connection transactions initiated to more than one of the access providers by an attacking access requestor during a first period of time exceeds a threshold number, as recited in amended independent claim 1. Therefore, for at least these reasons, applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 and its dependent claims.

Independent claim 25, although different in scope from claim 1, recites features similar to the features of independent claim 1 discussed above, but does so in the context of a system. Accordingly, for at least the reasons discussed above with respect to claim 1, applicants respectfully request reconsideration and withdrawal of the rejection of claim 25 and its dependent claims.

Claims 40 and 41, which depend from claim 1, have been rejected as being unpatentable over Eichstaedt in view of Short and in further view of Lin (U.S. Patent Number 6,751,668). Lin, which was cited for disclosing establishment of a communication link involving exchange of more than two electronic messages and monitoring a rate of receipt of session establishment, fails to remedy the deficiencies of Eichstaedt and Short discussed above. Accordingly, for at least the reasons discussed above with respect to claim 1, applicants respectfully request reconsideration and withdrawal of the rejection of claims 40 and 41.

New Claims

New claims 46-49 each depend from independent claim 1. For at least the reason of that dependency and the reasons noted above with respect to independent claim 1, applicants submit that claims 46-49 are allowable.

New independent claim 50, although different in scope from claim 1, recites features similar to the features of independent claim 1 discussed above, but does so in the context of a switch. Accordingly, for at least the reasons discussed above with respect to claim 1, applicants submit that claim 50 and its dependent claims are allowable.

Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the

amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants submit that all claims are in condition for allowance. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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